

MEDICAL JURISPRUDENCE†

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Importance of X-ray Examinations

A constantly reoccurring source of litigation is the alleged failure of a physician to correctly diagnose an injury or ailment when he is first consulted. The result of an improper diagnosis may be that a harmful course of treatment is prescribed, and when the patient discovers the mistake he brings a court action against the physician for malpractice. The rule is usually stated to be that a physician does not insure the correctness of his diagnosis. However, a patient is entitled to an ordinarily careful and thorough examination such as the circumstances, the condition of the patient and the physician's opportunities for examination will permit. Honest errors of judgment are excused in cases where physicians might reasonably arrive at different interpretations of the symptoms displayed, but no physician may relieve himself of responsibility unless he has first exercised ordinary and reasonable care and skill, and has given the patient the benefit of his best judgment.

The necessity for utilization of approved methods of diagnosis is demonstrated in the case of *Burford v. Baker*, 53 A.C.A. 337 decided by the California District Court of Appeal on July 8th, 1942. The plaintiff in this case was a minor of the age of fourteen years who was the victim of an automobile accident. On the day of the accident, and soon after it occurred, he was taken to the office of the defendant, an osteopathic physician, who had been acting as the family physician for some years, treating the plaintiff for various ailments including a glandular disturbance. The boy walked with a noticeable limp at the time the defendant was first consulted and his hip was discolored and swollen. The defendant failed to follow the suggestion of the plaintiff's father that an x-ray be taken, and after examination, stated that the injury was only a bruise or muscle strain which should be treated by the application of hot towels. When the injury did not respond to this treatment and after the plaintiff had made numerous visits to the defendant's office with an increasingly severe limp, the defendant stated that arthritis had developed and insisted that the leg should be exercised and that the boy should be prevented from forming the habit of favoring his right leg. Despite several requests by the plaintiff's father, no x-rays were taken. The result of the injury and this treatment was that the plaintiff's right leg became an inch shorter than his left leg and he suffered a permanent loss of motion in his right hip.

After the defendant's services were terminated

and ten months after the accident, an x-ray of the plaintiff's hip disclosed that he was suffering from a separation of the femoral epiphysis. Attempts were made to reduce the separation and the hip and leg were placed in a cast. But this treatment was unavailing.

At the trial of the malpractice action which the plaintiff subsequently brought, charging negligence in diagnosis and treatment, expert testimony was given to the effect that an osteopathic physician who possesses the ordinary skill and knowledge of similar practitioners in the community in which the defendant practiced, would, under the circumstances, have had an x-ray taken of plaintiff's injured hip soon after the plaintiff first developed the limp and complained of pain in his hip. The defendant attempted to prove that the epiphyseal separation resulted from the glandular disturbance for which he had been treating the plaintiff, but the Court chose to believe the testimony of plaintiff's experts to the effect that premature weight bearing and the defendant's failure to immobilize the hip had caused the separation. The failure to use x-ray in diagnosing the injury was held to constitute negligence and a judgment was rendered against the defendant.

This is not the first time in California that a malpractice action has been prosecuted successfully against a physician for his failure to use x-ray in diagnosing injuries of the type involved in the *Burford* case. The facts of this case bear a striking similarity to the case of *Rankin v. Mills*, 207 Cal. 438. There the defendant physician had also neglected to have x-rays taken of an injured hip and he was held responsible for his improper diagnosis and treatment.

These two cases would seem clearly to establish the proposition that if a physician fails to have x-rays taken of any type of bone injury, and thereby fails properly to diagnose and treat the injury, he will be held for any damages which could have been avoided if an x-ray had been taken and a proper treatment prescribed on the basis of what the x-ray would disclose. This proposition seems inherently reasonable in view of the accessibility of most communities to x-ray apparatus. There is very little that can be said in defense of failure to utilize modern methods of diagnosis when they are accessible.

Slowly we are beginning to realize the relationship between good housing and health. Other agencies have taken the leadership in slum clearance and in the provision of good housing. It is not too late even now, because of the magnitude of the undertaking and the need from the health point of view, for health departments to concern themselves more actively with this subject.—John L. Rice, M. D., *Commissioner of Health, New York City*.

A man will talk much of his experience, and make the same mistake every day.

Simplicity and clearness are the eloquence of science.—*Macaulay*.

† Editor's Note.—This department of CALIFORNIA AND WESTERN MEDICINE, presenting copy submitted by Hartley F. Peart, Esq., will contain excerpts from the syllabi of recent decisions and analyses of legal points and procedures of interest to the profession.